

## **REMARKS**

The non-final Office Action dated October 18, 2007, has been carefully considered. Claims 30-35 are pending in the present application. The specification has been amended to delete an incomplete sentence. Claim 30 has been amended herein to more particularly claim a certain embodiment of the present invention. Support for such amendment can be found in the originally-filed specification at, for example, page 4, lines 3-6. No new matter has been added.

Entry of the above amendment and allowance of the present application are respectfully requested.

### **I. CLAIM REJECTION UNDER § 103(a)**

Claims 30-35 have been rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over European Patent Application No. EP 0689807 to Turnlund *et al.* (“Turnlund”) in view of U.S. Patent No. 6,471,721 to Dang (“Dang”). This rejection is respectfully traversed.

As amended, claim 30 recites ablating the coated structure with an ultrashort-pulse laser to form at least one opening extending through the coated portion. Claims 31-35 depend from claim 30 and, thus, include all the recitations of claim 30.

As previously discussed in the response filed on July 31, 2007, Turnlund does not disclose or suggest a medical device comprising a metal. Instead, Turnlund is directed to biodegradable mesh-and-film stents that are constructed of biodegradable materials (Abstract). Also, Turnlund does not teach or suggest using an ultrashort-pulse laser as recited in claim 30. Turnlund, at column 9, lines 47-50, uses a continuous CO<sub>2</sub> laser, a pulsed YAG laser, or an excimer laser for cutting the mesh-and-film material. Turnlund does not disclose or suggest the use of an ultrashort-pulse laser.

Dang does not remedy the deficiencies of Turnlund, because Dang also does not disclose or suggest the use of an ultrashort-pulse laser. Furthermore, Applicant asserts that it is improper to combine the references, Turnlund and Dang, because Turnlund teaches away from their combination. In particular, Turnlund relates to biodegradable mesh stents reinforced with a biodegradable film laminate and thus teaches away from a medical device comprising a metal, which is not biodegradable. The Examiner cites Dang as disclosing a

stent made of metal. Thus, one skilled in the art would not combine Turnlund and Dang to obtain the presently claimed invention.

According to MPEP § 2113, “[t]he structure implied by the process steps should be considered when assessing the patentability of product-by-process claims over the prior art, especially where . . . the manufacturing process steps would be expected to impart distinctive structural characteristics to the final product.” As stated in the present specification, “[w]hen a material is ablated by a conventional laser, the material is removed by thermal ablation wherein the material is locally heated to near melting point or boiling point. Thus, ablation using conventional lasers has various problems.” See present specification, page 3, lines 12-24. In contrast, “ablation using an ultrashort-pulse laser is free from such problems. . . . As a result, the ultrashort-pulse laser does not react differently between dielectric materials and electric materials. Thus, any material, including glasses, polymers, ceramics, silicon, and metals, can be ablated with very high precision without damage in surrounding area by ultrashort-pulse lasers due to the absence of heat shock waves.” Specification, page 3, lines 25-34. Thus, a resultant medical device of a combination of Turnlund and Dang, if such combination were proper (which for the reason stated above Applicant believes is not), would not be the same as that presently claimed device.

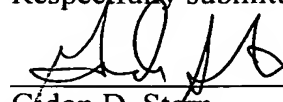
Thus, it is believed that claims 30-35 are patentable over Turnlund in view of Dang, and respectfully requests withdrawal of the rejection under 35 U.S.C. § 103(a). Accordingly, allowance of claims 30-35 are respectfully requested.

## II. CONCLUSION

As the claim rejection has been overcome, all pending claims are believed to be in condition for allowance. Should the Examiner not agree with Applicant's position, then a personal or telephonic interview is respectfully requested to discuss any remaining issues and expedite the allowance of the application.

Respectfully submitted,

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Gidon D. Stern

(Reg. No. 27,469)

By:

  
Fritz Klantschi

(Reg. No. 50,333)

**JONES DAY**

222 East 41st Street

New York, New York 10017

(212) 326-3939